

108TH CONGRESS
1ST SESSION

H. R. 1560

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2003

Mr. DUNCAN (for himself and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the
5 “Water Quality Financing Act of 2003”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Federal Water Pollution Control Act.

TITLE I—TECHNICAL AND MANAGEMENT ASSISTANCE

Sec. 101. Technical assistance.

- Sec. 102. State management assistance.
- Sec. 103. Watershed pilot projects.

TITLE II—CONSTRUCTION OF TREATMENT WORKS

- Sec. 201. Sewage collection systems.
- Sec. 202. Treatment works defined.
- Sec. 203. Policy on cost effectiveness.
- Sec. 204. Pilot program for alternative water source projects.
- Sec. 205. Sewer overflow control grants.

TITLE III—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

- Sec. 301. General authority for capitalization grants.
- Sec. 302. Capitalization grant agreements.
- Sec. 303. Water pollution control revolving loan funds.
- Sec. 304. Allotment of funds.
- Sec. 305. Intended use plan.
- Sec. 306. Federal oversight.
- Sec. 307. Technical assistance.
- Sec. 308. Authorization of appropriations.

TITLE IV—GENERAL PROVISIONS

- Sec. 401. Definition of treatment works.
- Sec. 402. Funding for Indian programs.

1 SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CON- **2 TROL ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Federal Water Pollution
8 Control Act (33 U.S.C. 1251 et seq.).

TITLE I—TECHNICAL AND MANAGEMENT ASSISTANCE

SEC. 101. TECHNICAL ASSISTANCE.

(a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL
TREATMENT WORKS.—Section 104(b) (33 U.S.C.
1254(b)) is amended—

(1) by striking “and” at the end of paragraph
(6);

(2) by striking the period at the end of para-
graph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) make grants to nonprofit organizations—

“(A) to provide technical assistance to
rural and small municipalities for the purpose
of assisting, in consultation with the State in
which the assistance is provided, such munici-
palities in the planning, developing, and acquisi-
tion of financing for wastewater infrastructure
assistance;

“(B) to capitalize revolving loan funds for
the purpose of providing loans, in consultation
with the State in which the assistance is pro-
vided, to rural and small municipalities for
predevelopment costs associated with waste-
water infrastructure projects or short-term

1 costs incurred for equipment replacement that
2 is not part of regular operation and maintenance
3 activities for existing wastewater systems,
4 subject to the conditions that any loan from the
5 fund will be made at a below market interest
6 rate, for a term not to exceed 10 years, and in
7 an amount not to exceed \$100,000 and that all
8 loan repayments will be credited to the fund;

9 “(C) to provide technical assistance and
10 training for rural and small publicly owned
11 treatment works and decentralized wastewater
12 treatment systems to enable such treatment
13 works and systems to protect water quality and
14 achieve and maintain compliance with the re-
15 quirements of this Act; and

16 “(D) to disseminate information to rural
17 and small municipalities and municipalities that
18 meet the affordability criteria established under
19 section 603(i)(2) by the State in which the mu-
20 nicipality is located with respect to planning,
21 design, construction, and operation of publicly
22 owned treatment works and decentralized
23 wastewater treatment systems.”.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—Section

25 104(u) (33 U.S.C. 1254(u)) is amended—

1 (1) by striking “and (6)” and inserting “(6”;
2 and

3 (2) by inserting before the period at the end the
4 following: “; and (7) not to exceed \$75,000,000 for
5 each of fiscal years 2004 through 2008 for carrying
6 out subsections (b)(3) and (b)(8), except that not
7 less than 20 percent of the amounts appropriated
8 pursuant to this paragraph in a fiscal year shall be
9 used for carrying out subsection (b)(8) and not more
10 than one-third of the amount used in a fiscal year
11 for carrying out subsection (b)(8) may be used to
12 carry out subparagraph (B) of that subsection”.

13 (c) COMPETITIVE PROCEDURES FOR AWARDING
14 GRANTS.—Section 104 (33 U.S.C. 1254(b)) is amended
15 by adding at the end the following:

16 “(w) COMPETITIVE PROCEDURES FOR AWARDING
17 GRANTS.—The Administrator shall establish procedures
18 that, to the maximum extent practicable, promote com-
19 petition and openness in the award of grants to nonprofit
20 private agencies, institutions, and organizations under this
21 section.”.

22 **SEC. 102. STATE MANAGEMENT ASSISTANCE.**

23 Section 106(a) (33 U.S.C. 1256(a)) is amended—

24 (1) by striking “and” at the end of paragraph
25 (1);

1 (2) by striking the semicolon at the end of
2 paragraph (2) and inserting “; and”; and

3 (3) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) such sums as may be necessary for each
6 of fiscal years 1991 through 2003, and
7 \$250,000,000 for each of fiscal years 2004 through
8 2008;”.

9 **SEC. 103. WATERSHED PILOT PROJECTS.**

10 (a) SECTION REDESIGNATION.—The second section
11 121 (33 U.S.C. 1274; relating to watershed pilot projects)
12 is redesignated as section 122.

13 (b) PILOT PROJECTS.—Section 122 (as so redesign-
14 nated) is amended—

15 (1) in the section heading by striking “**WET**
16 **WEATHER**”; and

17 (2) in subsection (a)—

18 (A) in the matter preceding paragraph (1)
19 by striking “wet weather discharge”;

20 (B) in paragraph (2) by inserting “, in-
21 cluding low-impact development technologies”
22 before the period at the end; and

23 (C) by adding at the end the following:

24 “(3) WATERSHED PARTNERSHIPS.—Efforts of
25 municipalities and property owners to demonstrate

1 cooperative ways to address nonpoint sources of pol-
 2 lution to reduce adverse impacts on water quality.”.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
 4 122(c)(1) (as so redesignated) is amended by striking “for
 5 fiscal year 2004” and inserting “for each of fiscal years
 6 2004 through 2008”.

7 (d) REPORT TO CONGRESS.—Section 122(d) (as so
 8 redesignated) is amended by striking “5 years” and insert-
 9 ing “7 years”.

10 **TITLE II—CONSTRUCTION OF** 11 **TREATMENT WORKS**

12 **SEC. 201. SEWAGE COLLECTION SYSTEMS.**

13 Section 211 (33 U.S.C. 1291) is amended—

14 (1) by striking the section designation and all
 15 that follows through “(a) No” and inserting the fol-
 16 lowing:

17 **“SEC. 211. SEWAGE COLLECTION SYSTEMS.**

18 **“(a) IN GENERAL.—No”;**

19 (2) in subsection (b) by inserting “POPULATION
 20 DENSITY.—” after “(b)”; and

21 (3) by striking subsection (c) and inserting the
 22 following:

23 **“(c) EXCEPTIONS.—**

24 **“(1) REPLACEMENT AND MAJOR REHABILITA-**
 25 **TION.—Notwithstanding the requirement of sub-**

1 section (a)(1) concerning the existence of a collection
 2 system as a condition of eligibility, a project for re-
 3 placement or major rehabilitation of a collection sys-
 4 tem existing on January 1, 2003, shall be eligible for
 5 a grant under this title if the project otherwise
 6 meets the requirements of subsection (a)(1) and
 7 meets the requirement of paragraph (3).

8 “(2) NEW SYSTEMS.—Notwithstanding the re-
 9 quirement of subsection (a)(2) concerning the exist-
 10 ence of a community as a condition of eligibility, a
 11 project for a new collection system to serve a com-
 12 munity existing on January 1, 2003, shall be eligible
 13 for a grant under this title if the project otherwise
 14 meets the requirements of subsection (a)(2) and
 15 meets the requirement of paragraph (3).

16 “(3) REQUIREMENT.—A project meets the re-
 17 quirement of this paragraph if the purpose of the
 18 project is to accomplish the objectives, goals, and
 19 policies of this Act by addressing an adverse envi-
 20 ronmental condition existing on the date of enact-
 21 ment of this paragraph.”.

22 **SEC. 202. TREATMENT WORKS DEFINED.**

23 Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amend-
 24 ed—

25 (1) by striking “any works, including site”;

1 (2) by striking “is used for ultimate” and in-
2 serting “will be used for ultimate”; and

3 (3) by inserting before the period at the end the
4 following: “and acquisition of other lands, and inter-
5 ests in lands, which are necessary for construction”.

6 **SEC. 203. POLICY ON COST EFFECTIVENESS.**

7 Section 218(a) (33 U.S.C. 1298(a)) is amended by
8 striking “combination of devices and systems” and all that
9 follows through “from such treatment;” and inserting
10 “treatment works;”.

11 **SEC. 204. PILOT PROGRAM FOR ALTERNATIVE WATER**
12 **SOURCE PROJECTS.**

13 Section 220(j) (33 U.S.C. 1300(j)) is amended by
14 striking “2004” and inserting “2008”.

15 **SEC. 205. SEWER OVERFLOW CONTROL GRANTS.**

16 (a) IN GENERAL.—Section 221(c) (33 U.S.C. 1301)
17 is amended to read as follows:

18 “(c) FINANCIALLY DISTRESSED COMMUNITY DE-
19 FINED.—In subsection (b), the term ‘financially distressed
20 community’ means a community that meets affordability
21 criteria established by the State in which the community
22 is located under section 603(i)(2).”.

23 (b) ADMINISTRATIVE REQUIREMENTS.—Section
24 221(e) (33 U.S.C. 1301(e)) is amended to read as follows:

1 “(e) ADMINISTRATIVE REQUIREMENTS.—A project
 2 that receives assistance under this section shall be carried
 3 out subject to the same requirements as a project that
 4 receives assistance from a State water pollution control
 5 revolving fund under title VI, except to the extent that
 6 the Governor of the State in which the project is located
 7 determines that a requirement of title VI is inconsistent
 8 with the purposes of this section.”.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—The first
 10 sentence of section 221(f) (33 U.S.C. 1301(f)) is amended
 11 by inserting before the period at the end the following:
 12 “such sums as may be necessary for fiscal year 2004, and
 13 \$250,000,000 for each of fiscal years 2005 through
 14 2008”.

15 (d) ALLOCATION OF FUNDS.—Section 221(g) (33
 16 U.S.C. 1301(g)) is amended to read as follows:

17 “(g) ALLOCATION OF FUNDS.—

18 “(1) FISCAL YEAR 2004.—Subject to subsection
 19 (h), the Administrator shall use the amounts appro-
 20 priated to carry out this section for fiscal year 2004
 21 for making grants to municipalities and municipal
 22 entities under subsection (a)(2), in accordance with
 23 the criteria set forth in subsection (b).

24 “(2) FISCAL YEAR 2005 AND THEREAFTER.—

25 Subject to subsection (h), the Administrator shall

1 use the amounts appropriated to carry out this sec-
2 tion for fiscal year 2005 and each fiscal year there-
3 after for making grants to States under subsection
4 (a)(1), in accordance with a formula to be estab-
5 lished by the Administrator, after providing notice
6 and an opportunity for public comment, that allo-
7 cates to each State a proportional share of such
8 amounts based on the total needs of the State for
9 municipal combined sewer overflow controls and san-
10 itary sewer overflow controls identified in the most
11 recent survey conducted pursuant to section
12 516(b)(1).”.

13 (e) REPORTS.—The first sentence of section 221(i)
14 (33 U.S.C. 1301(i)) is amended by striking “2003” and
15 inserting “2007”.

16 **TITLE III—STATE WATER POLLU-**
17 **TION CONTROL REVOLVING**
18 **FUNDS**

19 **SEC. 301. GENERAL AUTHORITY FOR CAPITALIZATION**
20 **GRANTS.**

21 Section 601(a) (33 U.S.C. 1381(a)) is amended by
22 striking “for providing assistance” and all that follows
23 through the period at the end and inserting the following:
24 “to accomplish the objectives, goals, and policies of this

1 Act by providing assistance for projects and activities
2 identified in section 603(c).”.

3 **SEC. 302. CAPITALIZATION GRANT AGREEMENTS.**

4 (a) REPORTING INFRASTRUCTURE ASSETS.—Section
5 602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking
6 “standards” and inserting “standards, including stand-
7 ards relating to the reporting of infrastructure assets”.

8 (b) ADDITIONAL REQUIREMENTS.—Section 602(b)
9 (33 U.S.C. 1382(b)) is amended—

10 (1) by striking “and” at the end of paragraph
11 (9);

12 (2) by striking the period at the end of para-
13 graph (10) and inserting a semicolon; and

14 (3) by adding at the end the following:

15 “(11) the State will establish, maintain, invest,
16 and credit the fund with repayments, such that the
17 fund balance will be available in perpetuity for pro-
18 viding financial assistance in accordance with this
19 title;

20 “(12) any fees charged by the State to recipi-
21 ents of assistance will be used for the sole purpose
22 of financing the cost of administering the fund;

23 “(13) beginning in fiscal year 2005, the State
24 will include as a condition of providing assistance to
25 a municipality or intermunicipal, interstate, or State

1 agency that the recipient of such assistance certify,
2 with supporting documentation, that the recipient—

3 “(A) has studied and evaluated the cost
4 and effectiveness of innovative and alternative
5 processes, materials, and techniques for car-
6 rying out the proposed project or activity for
7 which assistance is sought under this title, and
8 has selected, to the extent practicable, a project
9 or activity that more efficiently uses energy and
10 natural and financial resources or provides
11 greater environmental benefits; and

12 “(B) has analyzed the cost and effective-
13 ness of alternative management and financing
14 approaches (including rate structures, issuance
15 of bonds, restructuring, regional alternatives,
16 consolidation, and public-private partnerships)
17 for carrying out a project or activity for which
18 assistance is sought under this title, taking into
19 account the cost of operating and maintaining
20 the project or activity over its life, as well as
21 the cost of constructing the project or activity;

22 “(14) the State will use at least 15 percent of
23 the amount of each capitalization grant received by
24 the State under this title after September 30, 2004,
25 to provide assistance to municipalities of fewer than

1 20,000 individuals that meet the affordability cri-
2 teria established by the State under section
3 603(i)(2) for activities included on the State’s pri-
4 ority list established under section 603(g), to the ex-
5 tent that there are sufficient applications for such
6 assistance; and

7 “(15) treatment works eligible under section
8 603(c)(1) which will be constructed in whole or in
9 part with funds directly made available by capitaliza-
10 tion grants under this title and section 205(m) will
11 meet the requirements of, or otherwise be treated
12 (as determined by the Governor of the State) under
13 sections 204(b)(1), 211, 218, and 511(c)(1) in the
14 same manner as treatment works constructed with
15 assistance under title II of this Act.”.

16 **SEC. 303. WATER POLLUTION CONTROL REVOLVING LOAN**
17 **FUNDS.**

18 (a) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-
19 SISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amend-
20 ed to read as follows:

21 “(c) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-
22 SISTANCE.—The amounts of funds available to each State
23 water pollution control revolving fund shall be used only
24 for providing financial assistance—

1 “(1) to any municipality or intermunicipal,
2 interstate, or State agency for construction of pub-
3 licly owned treatment works;

4 “(2) for the implementation of a management
5 program established under section 319;

6 “(3) for development and implementation of a
7 conservation and management plan under section
8 320;

9 “(4) for the implementation of lake protection
10 programs and projects under section 314;

11 “(5) for repair or replacement of decentralized
12 wastewater treatment systems that treat domestic
13 sewage;

14 “(6) for measures to manage or reduce munic-
15 ipal stormwater runoff;

16 “(7) to any municipality or intermunicipal,
17 interstate, or State agency for measures to reduce
18 the demand for publicly owned treatment works ca-
19 pacity through water conservation;

20 “(8) for measures to increase the security of
21 publicly owned treatment works; and

22 “(9) for the development and implementation of
23 watershed projects meeting the criteria set forth in
24 section 122.”.

1 (b) EXTENDED REPAYMENT PERIOD.—Section
2 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

3 (1) in subparagraph (A) by striking “20 years”
4 and inserting “the lesser of 30 years or the design
5 life of the project to be financed with the proceeds
6 of the loan”; and

7 (2) in subparagraph (B) by striking “not later
8 than 20 years after project completion” and insert-
9 ing “upon the expiration of the term of the loan”.

10 (c) FISCAL SUSTAINABILITY PLAN.—Section
11 603(d)(1) (33 U.S.C. 1383(d)(1)) is further amended—

12 (1) by striking “and” at the end of subpara-
13 graph (C);

14 (2) by inserting “and” at the end of subpara-
15 graph (D); and

16 (3) by adding at the end the following:

17 “(E) for any treatment works proposed for
18 repair, replacement, or expansion, and eligible
19 for assistance under section 603(c)(1), the re-
20 cipient of a loan will develop and implement a
21 fiscal sustainability plan that includes—

22 “(i) an inventory of critical assets
23 that are a part of the treatment works;

1 “(ii) an evaluation of the condition
2 and performance of inventoried assets or
3 asset groupings; and

4 “(iii) a plan for maintaining, repair-
5 ing, and, as necessary, replacing the treat-
6 ment works and a plan for funding such
7 activities.”.

8 (d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7)
9 (33 U.S.C. 1383(d)(7)) is amended by inserting before the
10 period at the end the following: “, \$400,000 per year, or
11 $\frac{1}{5}$ percent per year of the current valuation of the fund,
12 whichever amount is greatest, plus the amount of any fees
13 collected by the State for such purpose regardless of the
14 source”.

15 (e) TECHNICAL AND PLANNING ASSISTANCE FOR
16 SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is
17 amended—

18 (1) by striking “and” at the end of paragraph
19 (6);

20 (2) by striking the period at the end of para-
21 graph (7) and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(8) to provide owners and operators of small
24 treatment works (as defined in section 607) with
25 technical and planning assistance and assistance in

1 financial management, user fee analysis, budgeting,
 2 capital improvement planning, facility operation and
 3 maintenance, repair schedules, and other activities
 4 to improve wastewater treatment plant management
 5 and operations; except that such amounts shall not
 6 exceed 2 percent of grant awards to such fund under
 7 this title.”.

8 (f) ADDITIONAL SUBSIDIZATION.—Section 603 (33
 9 U.S.C. 1383) is amended by adding at the end the fol-
 10 lowing:

11 “(i) ADDITIONAL SUBSIDIZATION.—

12 “(1) IN GENERAL.—In any case in which a
 13 State provides assistance to a municipality or inter-
 14 municipal, interstate, or State agency under sub-
 15 section (d), the State may provide additional sub-
 16 sidization, including forgiveness of principal and
 17 negative interest loans—

18 “(A) to benefit a municipality that—

19 “(i) meets the State’s affordability
 20 criteria established under paragraph (2);
 21 or

22 “(ii) does not meet the State’s afford-
 23 ability criteria if the recipient—

1 “(I) seeks additional subsidiza-
2 tion to benefit individual ratepayers in
3 the residential user rate class;

4 “(II) demonstrates to the State
5 that such ratepayers will experience a
6 significant hardship from the increase
7 in rates necessary to finance the
8 project or activity for which assistance
9 is sought; and

10 “(III) ensures, as part of an as-
11 sistance agreement between the State
12 and the recipient, that the additional
13 subsidization provided under this
14 paragraph is directed through a user
15 charge rate system (or other appro-
16 priate method) to such ratepayers; or

17 “(B) to implement alternative processes,
18 materials, and techniques (including non-
19 structural protection of surface waters, new or
20 improved methods of waste treatment, and pol-
21 lutant trading) that may result in cost savings
22 or increased environmental benefit when com-
23 pared to standard processes, materials, and
24 techniques.

25 “(2) AFFORDABILITY CRITERIA.—

1 “(A) ESTABLISHMENT.—On or before Sep-
2 tember 30, 2004, and after providing notice
3 and an opportunity for public comment, a State
4 shall establish affordability criteria to assist in
5 identifying municipalities that would experience
6 a significant hardship raising the revenue nec-
7 essary to finance a project or activity eligible
8 for assistance under section 603(c)(1) if addi-
9 tional subsidization is not provided. Such cri-
10 teria shall be based on income data, population
11 trends, and other data determined relevant by
12 the State.

13 “(B) EXISTING CRITERIA.—If a State has
14 previously established, after providing notice
15 and an opportunity for public comment, afford-
16 ability criteria that meet the requirements of
17 subparagraph (A), the State may use the cri-
18 teria for the purposes of this subsection. For
19 purposes of this Act, any such criteria shall be
20 treated as affordability criteria established
21 under this paragraph.

22 “(C) INFORMATION TO ASSIST STATES.—
23 The Administrator may publish information to
24 assist States in establishing affordability cri-
25 teria under subparagraph (A).

1 “(3) PRIORITY.—A State may give priority to a
2 recipient for a project or activity eligible for funding
3 under section 603(c)(1) if the recipient meets the
4 State’s affordability criteria.

5 “(4) SET-ASIDE.—

6 “(A) IN GENERAL.—In any fiscal year in
7 which the Administrator has available for obli-
8 gation more than \$1,400,000,000 for the pur-
9 poses of this title, a State shall provide addi-
10 tional subsidization under this subsection in the
11 amount specified in subparagraph (B) to eligi-
12 ble entities described in paragraph (1) for
13 projects and activities identified in the State’s
14 intended use plan prepared under section
15 606(c) to the extent that there are sufficient
16 applications for such assistance.

17 “(B) AMOUNT.—In a fiscal year described
18 in subparagraph (A), a State shall set aside for
19 purposes of subparagraph (A) an amount not
20 less than 25 percent of the difference be-
21 tween—

22 “(i) the total amount that would have
23 been allotted to the State under section
24 604 for such fiscal year if the amount
25 available to the Administrator for obliga-

1 tion under this title for such fiscal year
 2 had been equal to \$1,400,000,000; and
 3 “(ii) the total amount allotted to the
 4 State under section 604 for such fiscal
 5 year.

6 “(5) LIMITATION.—The total amount of addi-
 7 tional subsidization provided under this subsection
 8 by a State may not exceed 30 percent of the total
 9 amount of capitalization grants received by the State
 10 under this title in fiscal years beginning after Sep-
 11 tember 30, 2003.”.

12 **SEC. 304. ALLOTMENT OF FUNDS.**

13 (a) IN GENERAL.—Section 604(a) (33 U.S.C.
 14 1384(a)) is amended to read as follows:

15 “(a) ALLOTMENTS.—

16 “(1) FISCAL YEARS 2003 AND 2004.—Sums ap-
 17 propriated to carry out this title for each of fiscal
 18 years 2003 and 2004 shall be allotted by the Admin-
 19 istrator in accordance with the formula used to allot
 20 sums appropriated to carry out this title for fiscal
 21 year 2002.

22 “(2) FISCAL YEAR 2005 AND THEREAFTER.—
 23 Sums appropriated to carry out this title for fiscal
 24 year 2005 and each fiscal year thereafter shall be al-
 25 lotted by the Administrator as follows:

1 “(A) Amounts that do not exceed
2 \$1,350,000,000 shall be allotted in accordance
3 with the formula described in paragraph (1).

4 “(B) Amounts that exceed \$1,350,000,000
5 shall be allotted in accordance with the formula
6 developed by the Administrator under sub-
7 section (d).”.

8 (b) PLANNING ASSISTANCE.—Section 604(b) (33
9 U.S.C. 1384(b)) is amended by striking “1 percent” and
10 inserting “2 percent”.

11 (c) FORMULA.—Section 604 (33 U.S.C. 1384) is
12 amended by adding at the end the following:

13 “(d) FORMULA BASED ON WATER QUALITY
14 NEEDS.—Not later than September 30, 2004, and after
15 providing notice and an opportunity for public comment,
16 the Administrator shall publish an allotment formula
17 based on water quality needs in accordance with the most
18 recent survey of needs developed by the Administrator
19 under section 516(b).”.

20 **SEC. 305. INTENDED USE PLAN.**

21 (a) INTEGRATED PRIORITY LIST.—Section 603(g)
22 (33 U.S.C. 1383(g)) is amended to read as follows:

23 “(g) PRIORITY LIST.—

24 “(1) IN GENERAL.—For fiscal year 2005 and
25 each fiscal year thereafter, a State shall establish or

1 update a list of projects and activities for which as-
2 sistence is sought from the State’s water pollution
3 control revolving fund. Such projects and activities
4 shall be listed in priority order based on the method-
5 ology established under paragraph (2). The State
6 may provide financial assistance from the State’s
7 water pollution control revolving fund only with re-
8 spect to a project or activity included on such list.
9 In the case of projects and activities eligible for as-
10 sistence under section 603(c)(2), the State may in-
11 clude a category or subcategory of nonpoint sources
12 of pollution on such list in lieu of a specific project
13 or activity.

14 “(2) METHODOLOGY.—

15 “(A) IN GENERAL.—Not later than 1 year
16 after the date of enactment of this paragraph,
17 and after providing notice and opportunity for
18 public comment, each State (acting through the
19 State’s water quality management agency and
20 other appropriate agencies of the State) shall
21 establish a methodology for developing a pri-
22 ority list under paragraph (1).

23 “(B) PRIORITY FOR PROJECTS AND AC-
24 TIVITIES THAT ACHIEVE GREATEST WATER
25 QUALITY IMPROVEMENT.—In developing the

1 methodology, the State shall seek to achieve the
2 greatest degree of water quality improvement,
3 taking into consideration the requirement of
4 section 602(b)(5), section 603(i)(3), and wheth-
5 er such water quality improvements would be
6 realized without assistance under this title.

7 “(C) CONSIDERATIONS IN SELECTING
8 PROJECTS AND ACTIVITIES.—In determining
9 which projects and activities will achieve the
10 greatest degree of water quality improvement,
11 the State shall consider—

12 “(i) information developed by the
13 State under sections 303(d) and 305(b);

14 “(ii) the State’s continuing planning
15 process developed under section 303(e);

16 “(iii) the State’s management pro-
17 gram developed under section 319; and

18 “(iv) conservation and management
19 plans developed under section 320.

20 “(D) NONPOINT SOURCES.—For categories
21 or subcategories of nonpoint sources of pollu-
22 tion that a State may include on its priority list
23 under paragraph (1), the State may consider
24 the cumulative water quality improvements as-

1 sociated with projects or activities in such cat-
2 egories or subcategories.

3 “(E) EXISTING METHODOLOGIES.—If a
4 State has previously developed, after providing
5 notice and an opportunity for public comment,
6 a methodology that meets the requirements of
7 this paragraph, the State may use the method-
8 ology for the purposes of this subsection.”.

9 (b) INTENDED USE PLAN.—Section 606(c) (33
10 U.S.C. 1386(c)) is amended—

11 (1) in the matter preceding paragraph (1) by
12 striking “each State shall annually prepare” and in-
13 serting “each State (acting through the State’s
14 water quality management agency and other appro-
15 priate agencies of the State) shall annually prepare
16 and publish”;

17 (2) by striking paragraph (1) and inserting the
18 following:

19 “(1) the State’s priority list developed under
20 section 603(g);”;

21 (3) by striking “and” at the end of paragraph
22 (4);

23 (4) by striking the period at the end of para-
24 graph (5) and inserting “; and”; and

25 (5) by adding at the end the following:

1 “(6) if the State does not fund projects and ac-
 2 tivities in the order of the priority established under
 3 section 603(g), an explanation of why such a change
 4 in order is appropriate.”.

5 (c) TRANSITIONAL PROVISION.—Before completion
 6 of a priority list based on a methodology established under
 7 section 603(g) of the Federal Water Pollution Control Act
 8 (as amended by this section), a State shall continue to
 9 comply with the requirements of sections 603(g) and
 10 606(c) of such Act, as in effect on the day before the date
 11 of enactment of this Act.

12 **SEC. 306. FEDERAL OVERSIGHT.**

13 (a) ANNUAL REPORT.—Section 606(d) (33 U.S.C.
 14 1386(d)) is amended by inserting “the eligible purpose
 15 under section 603(c) for which the assistance is provided,”
 16 after “loan amounts,”.

17 (b) ANNUAL FEDERAL OVERSIGHT REVIEW.—Sec-
 18 tion 606(e) (33 U.S.C. 1386(e)) is amended by adding at
 19 the end the following: “In carrying out an oversight review
 20 under this subsection, the Administrator may allow a
 21 State to certify, with supporting documentation, its com-
 22 pliance with the requirements of this title.”.

23 **SEC. 307. TECHNICAL ASSISTANCE.**

24 Title VI (33 U.S.C. 1381 et seq.) is amended—

1 (1) by redesignating section 607 as section 608;
2 and

3 (2) by inserting after section 606 the following:

4 **“SEC. 607. TECHNICAL ASSISTANCE.**

5 “(a) ASSISTANCE FOR SMALL TREATMENT
6 WORKS.—

7 “(1) SIMPLIFIED PROCEDURES.—Not later than
8 1 year after the date of enactment of this section,
9 the Administrator shall assist the States in estab-
10 lishing simplified procedures for small treatment
11 works to obtain assistance under this title.

12 “(2) PUBLICATION OF MANUAL.—Not later
13 than 2 years after the date of the enactment of this
14 section, and after providing notice and opportunity
15 for public comment, the Administrator shall publish
16 a manual to assist small treatment works in obtain-
17 ing assistance under this title and publish in the
18 Federal Register notice of the availability of the
19 manual.

20 “(3) SMALL TREATMENT WORKS DEFINED.—
21 For purposes of this title, the term ‘small treatment
22 works’ means a treatment works for which a munici-
23 pality or intermunicipal, interstate, or State agency
24 seeks assistance under this title and which serves a
25 population of 20,000 or fewer.

1 “(b) ASSISTANCE FOR IMPROVING THE MANAGE-
 2 MENT OF WATER QUALITY INFRASTRUCTURE AND IN-
 3 CREASING COST-EFFECTIVENESS OF INFRASTRUCTURE
 4 IMPROVEMENTS.—At the request of any State, the Admin-
 5 istrator shall assist in the development of criteria for a
 6 State to determine compliance with the conditions of fund-
 7 ing assistance established under section 602(b)(13).”.

8 **SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 608 (as redesignated by section 307 of this
 10 Act) is amended by striking paragraphs (1) through (5)
 11 and inserting the following:

12 “(1) \$2,000,000,000 for fiscal year 2004;
 13 “(2) \$3,000,000,000 for fiscal year 2005;
 14 “(3) \$4,000,000,000 for fiscal year 2006;
 15 “(4) \$5,000,000,000 for fiscal year 2007; and
 16 “(5) \$6,000,000,000 for fiscal year 2008.”.

17 **TITLE IV—GENERAL**
 18 **PROVISIONS**

19 **SEC. 401. DEFINITION OF TREATMENT WORKS.**

20 Section 502 (33 U.S.C. 1362) is amended by adding
 21 at the end the following:

22 “(24) The term ‘treatment works’ has the
 23 meaning given that term in section 212.”.

24 **SEC. 402. FUNDING FOR INDIAN PROGRAMS.**

25 Section 518(c) (33 U.S.C. 1377) is amended—

1 (1) by striking “The Administrator” and insert-
2 ing the following:

3 “(1) FISCAL YEARS 1987–2003.—The Adminis-
4 trator”;

5 (2) in paragraph (1) (as so designated)—

6 (A) by inserting “and ending before Octo-
7 ber 1, 2003,” after “1986,”; and

8 (B) by striking the second sentence; and

9 (3) by adding at the end the following:

10 “(2) FISCAL YEAR 2004 AND THEREAFTER.—

11 For fiscal year 2004 and each fiscal year thereafter,
12 the Administrator shall reserve, before allotments to
13 the States under section 604(a), not less than 0.5
14 percent and not more than 1.5 percent of the funds
15 made available to carry out title VI.

16 “(3) USE OF FUNDS.—Funds reserved under
17 this subsection shall be available only for grants for
18 projects and activities eligible for assistance under
19 section 603(c) to serve—

20 “(A) Indian tribes;

21 “(B) former Indian reservations in Okla-
22 homa (as determined by the Secretary of the
23 Interior); and

1 “(C) Native villages (as defined in section
2 3 of the Alaska Native Claims Settlement Act
3 (43 U.S.C. 1602)).”.

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